

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

Blue Spike, LLC,

Plaintiff,

V.

Texas Instruments, Inc. et al.,

Defendants.

Civil Action No. 6:12-CV-499-MHS

Lead Case

Jury Trial Demanded

AGREED MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEFING

Plaintiff Blue Spike, LLC and Defendants Audible Magic Corp. and its customers¹ (“Audible Magic and its Customers”) file this Agreed Motion for Leave to File Supplemental Briefing, asking the Court to allow briefing on whether the Defendants’ assertion of new counterclaims against new parties has any impact on the transfer analysis, as follows:

1. Briefing on Audible Magic and its Customers' Motion to Change Venue (Dkt. No. 771) was completed on July 15, 2013. That same day, after Blue Spike, LLC had already filed its surreply opposing the transfer motion, Audible Magic and its Customers filed amended answers and counterclaims, in which they asserted third-party claims against Blue Spike, Inc. and Scott Moskowitz.

¹ Audible Magic Corp.'s customers that joined its Motion to Change Venue include Facebook, Inc., MySpace LLC, Specific Media LLC, Photobucket.com, Inc., DailyMotion, Inc., DailyMotion S.A., SoundCloud, Inc., SoundCloud Ltd., Myxer, Inc., Qlipso, Inc., Qlipso Media Networks, Ltd., Yap.tv, Inc., GoMiso, Inc., iMesh, Inc., Metacafe, Inc., Boodabee Technologies, Inc., Zedge Holdings, Inc., Brightcove Inc., Coincident.TV, Inc., Accedo Broadband North America, Inc., Accedo Broadband AB, MediaFire, LLC, WiOffer LLC, and Harmonix Music Systems, Inc.

2. In light of the third-party claims against Blue Spike, Inc. and Scott Moskowitz, the movants ask the Court's leave to submit supplemental briefing on the transfer motion to address the impact, if any, that the new third-party claims and the addition of new parties have on the transfer analysis.

3. The movants propose the following briefing schedule:

- that upon an order granting this agreed motion, Blue Spike, LLC would be permitted to file a supplemental opposition (not to exceed five pages) to the transfer motion;
- that Audible Magic and its Customers would be permitted to file a supplemental reply of no more than five pages within three court days after Blue Spike files its supplemental opposition; and
- that Blue Spike would be allowed to file a supplemental surreply of no more than three pages within two court days after Audible Magic and its Customers file their supplemental reply.

For these reasons, the movants ask the Court to grant this agreed motion.

Respectfully submitted,

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and Harmonix Music Systems, Inc.*

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that counsel for Plaintiff Blue Spike, LLC complied with the meet and confer requirement in Local Rule CV-7(h) and that Plaintiff Blue Spike, LLC and Defendants Audible Magic and its Customers that joined the transfer motion have all agreed to this Agreed Motion for Supplemental Briefing and Schedule.

/s/ Randall T. Garteiser

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Randall T. Garteiser